

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 7263**

**BILL NUMBER:** HB 1184

**NOTE PREPARED:** Jan 4, 2007

**BILL AMENDED:**

**SUBJECT:** Custody Disputes; Grandparent Visitation.

**FIRST AUTHOR:** Rep. Reske

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** X GENERAL  
DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** This bill requires a court that finds evidence of domestic or family violence or child abuse or neglect by a family or household member against a child in a proceeding for custody, modification of custody, parenting time, or grandparent visitation to: (1) make a determination as to whether the child's siblings are in danger of being victims of domestic or family violence by the family or household member; and (2) file a report with the department of child services if the court finds a sibling is in danger of being a victim of domestic or family violence or child abuse or neglect. The bill provides that a court may not modify an order granting or denying grandparent visitation unless: (1) there is a substantial change in a factor concerning the best interests of the child; or (2) the order was issued at least 12 months before the petition requesting modification of the order was filed. The bill also provides that a court: (1) may not grant grandparent visitation rights if visitation would be detrimental to the life, health, safety, or welfare of the child; and (2) may appoint a guardian ad litem or a court appointed special advocate, or both, in a proceeding concerning grandparent visitation. It requires a court to: (1) include certain written findings in its order if the court grants grandparent visitation; and (2) appoint a guardian ad litem or a court appointed special advocate upon the request of a party to a proceeding for grandparent visitation if the court determines the request is made in good faith and for a proper purpose.

**Effective Date:** July 1, 2007.

**Explanation of State Expenditures:**

**Explanation of State Revenues:** This bill would disallow the court from modifying an order denying visitation rights unless the order requested to be modified was issued at least 12 months before, or there is a substantial change in one or more factors concerning the best interest of the child.

The aforementioned requirement could reduce the number of petitions received by the court from grandparents seeking modification of an order denying visitation rights.

*Court Fee Revenue:* If fewer civil actions occur, revenue from court fees to the state General Fund may decrease. A civil filing fee of \$100 is assessed when a civil case is filed, 70% of which is deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

**Explanation of Local Expenditures:** *GAL/CASA in Grandparent Visitation Cases:* This bill would require a court to appoint a Guardian Ad Litem (GAL) or Court-Appointed Special Advocate (CASA) upon the request of a party when hearing a grandparent visitation case. In CY 2005, 761 family law (custody and visitation) cases were appointed a volunteer GAL/CASA; the number of cases in which an attorney was appointed is not known. Thus, the actual number of children or cases where a GAL/CASA is appointed under family law provisions is unknown. Furthermore, the number of cases which were grandparent visitation cases is not known.

This provision of the bill would increase expenditures for counties. GAL/CASAs that are appointed in family law cases (custody and visitation) are appointed at the expense of the county. Actual costs vary depending on the type of GAL/CASA appointed. Persons appointed can be of differing backgrounds and costs (for example, volunteer or attorney).

Actual increases in expenditures are dependent on the number of children or cases appointed a GAL/CASA, the type of GAL/CASA appointed (volunteer or paid), and the number of hours required for each individual case.

*Note:* Counties in which GAL/CASA programs do not exist would experience a higher increase in expenditures because GAL/CASA appointees in those counties would likely be paid individuals as opposed to volunteers. Currently, approximately 25 counties do not have a GAL/CASA program.

User Fees: Under current law, counties are permitted to charge a user fee when a GAL/CASA is appointed. Fees charged vary by county, ranging between \$0 and \$500. (*Note:* Some counties may charge higher fees. These numbers are not necessarily representative of all counties.) However, it should be noted that a portion of families do not pay the required user fee due to inability to pay.

Court Findings: The bill requires a court, if it grants visitation to a grandparent, to include written findings in its order that visitation with the grandparent is in the best interests of the child and not detrimental to the life, physical or mental health, safety, or welfare of the child.

*Court Notification of Potential CHINS to DCS:* The bill requires the court, in a proceeding for custody of a child, modification of custody of a child, or parenting time with a child, that finds evidence of domestic or family violence or child abuse or neglect by a family or household member against a child to make a determination as to whether any siblings of the child are in danger of being victims of domestic or family violence or child abuse or neglect. Furthermore, if the court makes a determination that a sibling is in danger the court is required to file a report with the Department of Child Services (DCS).

As proposed, the number of child in need of services (CHINS) cases could potentially increase. If this occurs, state expenditures will increase.

*Background Information:* As proposed, the caseloads of the county office of the Department of Child

Services, court with juvenile jurisdiction, and county prosecutor may increase. This increase in caseload and associated costs is unknown and contingent upon judicial action. Total increases in expenditures are dependent upon the number of substantiated findings of child abuse or neglect involving a household member of a noncustodial parent, and the number of children referred for a CHINS determination.

Out-of-home placements and services to CHINS are funded by the local county Family and Children's Fund. Certain out-of-home placements may be matched with federal IV-E funds, and CHINS are eligible for Medicaid services. Child welfare caseworkers and other staff of the local offices of the Department of Child Services are state employees. Additions to the number of children being supervised by the DCS may result in additional workload on existing staff or, if a large increase, a need for additional staff.

Total county expenditures for child welfare services in FY 2005 were \$421.4 M. This represented services for 11,887 children (monthly average) in FY 2005. This dollar figure represents all services paid for through the child welfare system, some of which may not be direct services.

**Explanation of Local Revenues:** *Court Fee Revenue:* If fewer civil actions occur, local governments would experience a decrease in revenue to the following sources. The county general fund typically receives 27% of a \$100 filing fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee is deposited in the county general fund and 25% is deposited in the city or town general fund.

**State Agencies Affected:** Department of Child Services.

**Local Agencies Affected:** Trial courts, city and town courts; GAL/CASA programs; local office of Department of Child Services.

**Information Sources:** Leslie Rogers Dunn, Indiana Office of GAL/CASA, 232-2542; Teresa Christopher, Indiana Office of GAL/CASA, 232-2542; *2006 GAL/CASA Program Directory* and *2005 Program Statistics and Demographics*, <http://www.in.gov/judiciary/galcasa/directory.pdf>; John Ryan, Department of Child Services; Mary Edmonds, Department of Child Services.

**Fiscal Analyst:** Sarah Brooks, 317-232-9559.